

Maine Revised Statutes
Title 18-A: PROBATE CODE

Article :

§9-201. ESTABLISHMENT OF PATERNITY

(a). When the biological mother of a child born out of wedlock wishes to consent to the adoption of the child or to execute a surrender and release for the purpose of adoption of the child and the putative father has not consented to the adoption of the child or joined in a surrender and release for the purpose of adoption of the child or waived his right to notice, the biological mother must file an affidavit of paternity with the judge of probate so that the judge may determine how to give notice of the proceedings to the putative father of the child.

[1995, c. 694, Pt. C, §7 (NEW); 1995, c. 694, Pt. E, §2 (AFF) .]

(b). If the judge finds from the affidavit of the biological mother that the putative father's whereabouts are known, the judge shall order that notice of the mother's intent to consent to adoption or to execute a surrender and release, or the mother's actual consent or surrender and release, for the purpose of adoption of the child, be served upon the putative father of the child. If the judge finds that the putative father's whereabouts are unknown, then the court shall order notice by publication in accordance with the Maine Rules of Probate Procedure. If the biological mother does not know or refuses to tell the court who the biological father is, the court may order publication in accordance with the Maine Rules of Probate Procedure in a newspaper of general circulation in the area where the petition is filed, where the biological mother became pregnant or where the putative father is most likely to be located. The notice must specify the names of the biological mother and the child.

[1995, c. 694, Pt. C, §7 (NEW); 1995, c. 694, Pt. E, §2 (AFF) .]

(c). A putative father or a legal father who is not the biological father may waive his right to notice in a document acknowledged before a notary public or a judge of probate. The notary public may not be an attorney who represents either the mother or any person who is likely to become the legal guardian, custodian or parent of the child.

(1). The waiver of notice must indicate that the putative father or legal father understands that the waiver of notice operates as a consent to adoption or a surrender and release for the purposes of adoption for any adoption of the child, and that by signing the waiver of notice the putative father or legal father voluntarily gives up any rights to the named child. [1995, c. 694, Pt. C, §7 (NEW); 1995, c. 694, Pt. E, §2 (AFF).]

(2). The waiver of notice may state that the putative father or legal father neither admits nor denies paternity. [1995, c. 694, Pt. C, §7 (NEW); 1995, c. 694, Pt. E, §2 (AFF).]

(3). The legal father shall attach to the waiver of notice an affidavit stating that, although he is the legal father, he is not the biological father. [1995, c. 694, Pt. C, §7 (NEW); 1995, c. 694, Pt. E, §2 (AFF).]

[1995, c. 694, Pt. C, §7 (NEW); 1995, c. 694, Pt. E, §2 (AFF) .]

(d). If, after notice, the putative father of the child wishes to establish parental rights to the child, he must, within 20 days after notice has been given or within a longer period of time as ordered by the judge, petition the judge of probate to grant to him parental rights. The petition must include an allegation that the putative father is in fact the biological father of the child.

[1995, c. 694, Pt. C, §7 (NEW); 1995, c. 694, Pt. E, §2 (AFF) .]

(e). Upon receipt of a petition under subsection (d), the judge shall fix a date for a hearing to determine the putative father's parental rights to the child.

[1995, c. 694, Pt. C, §7 (NEW); 1995, c. 694, Pt. E, §2 (AFF) .]

(f). The court shall appoint an attorney who is not the attorney for the putative father, the biological mother or the potential transferee agency or a potential adoptive parent to represent the child and to protect the child's interests.

[1995, c. 694, Pt. C, §7 (NEW); 1995, c. 694, Pt. E, §2 (AFF) .]

(g). Notice of the hearing must be given to the putative father, the biological mother, the attorney for the child and any other parties the judge determines appropriate. Notice need not be given to a putative father or a legal father who is not the biological father and who has waived his right to notice as provided in subsection (c).

[1995, c. 694, Pt. C, §7 (NEW); 1995, c. 694, Pt. E, §2 (AFF) .]

(h). Upon order of the court, the department or licensed child-placing agency shall furnish studies and reports relevant to the proceedings.

[1995, c. 694, Pt. C, §7 (NEW); 1995, c. 694, Pt. E, §2 (AFF) .]

(i). If, after a hearing, the judge finds that the putative father is the biological father, that he is willing and able to protect the child from jeopardy and has not abandoned the child, that he is willing and able to take responsibility for the child and that it is in the best interests of the child, then the judge shall declare the putative father the child's parent with all the attendant rights and responsibilities.

[1995, c. 694, Pt. C, §7 (NEW); 1995, c. 694, Pt. E, §2 (AFF) .]

(j). If the judge of probate finds that the putative father of the child has not petitioned or appeared within the period required by this section or has not met the requirements of subsection (i), the judge shall rule that the putative father has no parental rights and that only the biological mother of the child need consent to adoption or a surrender and release.

[1995, c. 694, Pt. C, §7 (NEW); 1995, c. 694, Pt. E, §2 (AFF) .]

SECTION HISTORY

1995, c. 694, §C7 (NEW). 1995, c. 694, §E2 (AFF).

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